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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHONECA DAVIS, DAWUD EUDELLE, JACLYN PAGNOTTA, and DAVID POMALES, individually and on behalf of all others similarly situated, and

KENNETH FINGERMAN,

Plaintiffs,

- against -

ABERCROMBIE & FITCH CO., ABERCROMBIE & FITCH STORES, INC., ABERCROMBIE & FITCH TRADING CO., d/b/a Abercrombie and Fitch, Abercrombie, and Hollister and Ruehl,

Defendants.

08 Civ. 01859 (PKC)

ECF CASE PKC

~~(PROPOSED)~~ FINAL JUDGMENT

WHEREAS certain plaintiffs in this action have alleged violations of the Fair Labor Standards Act, and the New York Labor Law (the First and Second Causes of Action of the Amended Complaint, filed June 16, 2008) (collectively the "Overtime Claims"); and

WHEREAS certain plaintiffs have also brought individual claims of discrimination and retaliation (the Third through Nineteenth Causes of Action of the Amended Complaint, filed June 16, 2008) (collectively, "Discrimination Claims"); and

WHEREAS, pursuant to Rule 68 of the Federal Rules of Civil Procedure, plaintiff Shane Miller accepted defendants' Offer of Judgment dated May 6, 2008, in the amount of $2,400.00 (two thousand four hundred dollars), inclusive of alleged unpaid overtime wages, interest, liquidated damages, and all other damages that may be assessed against the Defendants, plus reasonable attorneys' fees and court costs actually incurred to date attributable to the prosecution of Mr. Miller's claims as determined by this Court under applicable law; and

WHEREAS plaintiffs Cynthia Barcia and Robert Gammon have filed Stipulations of Voluntary Dismissal (Docs. #77 & 79); and

WHEREAS on May 26, 2009, the parties entered into a Settlement Agreement and Release, dated May 26, 2009 (the "Settlement Agreement"), which this Court preliminarily approved on June 2, 2009 Findings and Order Preliminarily Approving the Class Settlement, Directing the Issuance of Notice to the Class, and Scheduling a Settlement Hearing (Doc. #85) ("Preliminary Order"); and

WHEREAS defendants have paid the judgment against Shane Miller in full and the parties have agreed that reasonable attorneys' fees and costs for that claim are included in the fees contemplated in the Settlement Agreement; and

WHEREAS the Court held a Fairness Hearing on September 10, 2009, and no objections to the Settlement Agreement were filed or presented;

It is hereby ORDERED and ADJUDGED:

1. The class is certified pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3), as provided in the Preliminary Order.

2. The provisions of the Settlement Agreement for payment of $150,000 to the Class, and for division and distribution thereof, are approved.

3. Plaintiff Shane Miller has judgment against defendants in the amount of $2,400.00 (two thousand four hundred dollars), inclusive of alleged unpaid overtime wages, interest, liquidated damages, and all other damages that may be assessed against Defendants,

with no award of attorneys' fees, costs, or disbursements by the Court to any party; this judgment is satisfied in full.

4. Defendants shall pay plaintiffs $143,000.00 in attorneys' fees and costs. PKC

5. The Discrimination Claims have been dismissed pursuant to the Stipulation of Dismissal With Prejudice, ~~filed ______, 2009 (Doc. # __)~~ so ordered by the Court on October 6, 2009. PKC

6. Therefore, it is hereby ordered that all claims in this case are dismissed with prejudice. The Court retains jurisdiction to enforce the Settlement Agreement.

SO ORDERED.

P. Kevin Castel
United States District Judge

Dated: New York, New York
10-6, 2009